

**State of California
Office of Administrative Law**

In re:
State Allocation Board

Regulatory Action:

Title 2, California Code of Regulations

Adopt sections:

Amend sections: 1859.90.2

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

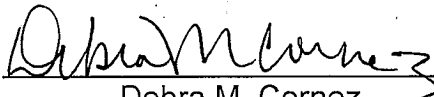
OAL File No. 2011-0422-09 E

This emergency regulatory action expands the types of projects eligible to participate in priority funding round procedures established by the State Allocation Board for school districts with construction-ready approved but unfunded projects to apply for State funds as the funds become available. Charter School Facility Program (CSFP) projects may apply for advance release of design and site acquisition funds, and Critically Overcrowded School Facilities Program projects may apply for advance release of environmental hardship site acquisition funds. In addition, the emergency action provides a 180 calendar day timeline for fund release requests for CSFP advance site acquisition funds.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 4/28/2011 and will expire on 10/26/2011. The Certificate of Compliance for this action is due no later than 10/25/2011.

Date: 4/28/2011


Debra M. Cornez
Assistant Chief Counsel/Acting Director

Original: Lisa Silverman
Copy: Robert Young

EMERGENCY

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATING ACTION SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 01-09)

For use by Secretary of State only

ENDORSED APPROVED
IN THE OFFICE OF

2011 APR 28 PM 2:18

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2011-0422-09E
For use by Office of Administrative Law (OAL) only		
NOTICE		REGULATIONS
2011 APR 22 PM 4:16 OFFICE OF ADMINISTRATIVE LAW		
AGENCY WITH RULEMAKING AUTHORITY State Allocation Board		AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY		ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved <input type="checkbox"/> Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Leroy F. Greene Sch. Facil. Act of 1998; CSFP and COS Advance Funding		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
TITLE(S) 2		AMEND Regulation Section 1859.90.2.	
3. TYPE OF FILING		REPEAL	
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) <input type="checkbox"/> Effective 30th day after filing with Secretary of State <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY <input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Robert Young		TELEPHONE NUMBER (916) 375-5939	FAX NUMBER (Optional) (916) 376-5332
		E-MAIL ADDRESS (Optional) robert.young@dgs.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

April 22, 2011

TYPED NAME AND TITLE OF SIGNATORY

Lisa Silverman, Acting Executive Officer, State Allocation Board

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

APR 28 2011

Office of Administrative Law

Section 1859.90.2. Priority Funding Round Process.

A priority funding round allows the Board to distribute available funds to districts or charter schools who request an Apportionment or an advance release of funds from a Preliminary Apportionment or Preliminary Charter School Apportionment during a specific 30-calendar day filing period. A priority funding round may be established pursuant to a public notice and announcement by the Board at one of its monthly meetings. The public notice shall be sent to all school districts and charter schools that have projects on the Unfunded List. At the Board's monthly meeting where the priority funding round is announced, a 30-calendar day filing period will also be established, with the filing period to begin the next business day following the date of the Board's meeting. Requests must be physically received by the OPSC by the 30th calendar day to be considered valid. Any funds not apportioned as part of a specified priority funding round shall remain available for any other applicable School Facilities Program project apportionments by the Board. During any priority funding round a district or charter school must submit the Form SAB 50-05 within 90 calendar days a specified time period of the Apportionment or approved advance release of funds request, pursuant to (a)(2) or (b)(2) of this section. Projects that apply for any specific priority funding round for which the OPSC does not physically receive an original signature copy of the Form SAB 50-05 within the 90-calendar day appropriate time limit shall be rescinded without further Board action.

(a) In order to be considered for an Apportionment, approved advance release of design funds from a Preliminary Charter School Apportionment, or approved advance release of environmental hardship site acquisition funds from a Preliminary Apportionment, the district or charter school must provide a written statement signed by an authorized district representative within the 30 calendar day filing period that contains all of the following:

~~(a)~~(1) Request to convert the unfunded approval to an Apportionment or to receive an approved advance release of funds; and

~~(b)~~(2) Concurrence with the a 90 calendar day time limit on fund release; and

~~(c)~~(3) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within the 90 calendar day time limit and failure to do so will result in the rescission of the Apportionment or approved advance release of funds request without further Board action; and

~~(d)~~(4) For those receiving an Apportionment, Acknowledgement that by participating in the priority funding round, the district or charter school is waiving its right to a standard 18 month timeline for fund release submittal.

(b) In order to be considered for an approved advance release of site acquisition funds from a Preliminary Charter School Apportionment, the district or charter school must provide a written statement signed by an authorized representative within the 30 calendar day filing period that contains all of the following:

(1) Request to convert the advance release of funds to an approved advance release of funds request; and

(2) Concurrence with a 180 calendar day time limit on fund release; and

(3) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within the 180 calendar day time limit and failure to do so will result in the rescission of the approved advance release of funds request without further Board action; and

(4) Acknowledgement that it must provide evidence that it has entered into the Charter School Agreements within 90 calendar days of approval of the advance release of funds request and failure to do so will result in the rescission of the approval without further Board action.

For purposes of this section "rescinded" or "rescission" shall mean that the apportionment or approved advance release of funds request returns to unfunded approval status with a new unfunded approval date. The new unfunded approval date will be determined by the Board at the time each priority funding round is approved. The district or charter school will not be required to re-submit the application and no further application review will be required.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.30, 17074.16, 17076.10, 17077.40, 17077.42 and 17077.45, Education Code.